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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,306	07/09/2003	John E. Johnson	717119.336	1305

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EXAMINER
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PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/604,306

Applicant(s)

JOHNSON, JOHN E.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-22-04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### *Amendment*

1. This office action is in response to applicant's amendment dated 12-20-04 and this action is final.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 19757745.

Referring to claim 18, the German patent discloses an apparatus for removing a spinal cord material from a carcass of an animal comprising, an elongated flexible tube – at 6, forming a vacuum casing – see figure 1, a substantially tubular cutting blade implement – at 1,2, having a sharpened leading edge – see for example figure 1, attached to one end opening of the leading end of the tubing about and extending from the rim of the opening of the tubing operable for engaging and breaking down a spinal cord material sufficient for vacuuming – see for example figures 1-2.

Claims 9-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,126,535 to Post.

Referring to claims 9 and 12, Post discloses an apparatus for removing spinal cord material from a carcass of an animal comprising, a pull chain – at 14-23, having linkages of spiral spring cutting head implements – proximate 15 and 18, and a feed line – at 13, attached to an end of the chain for insertion through the spinal canal and pulling the pull chain through – see for example figure 2A.

Referring to claim 10, Post discloses the pull chain has linkages of spiral spring cutting head implements with differing diameter cutting edges – see for example figures 2A-3B.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE Patent No. 19757745 in view of U.S. Patent No. 1,900,267 to Youman.

Referring to claims 1 and 6, the German patent discloses an apparatus for removing spinal cord material from a carcass of an animal comprising, an elongated flexible tube – at 9, forming a vacuum casing – see figure 1, a flexible rotatable shaft – at 7,8,12, extending through the tube and captured therein – see figure 1, and a cutting bit – at 1,2, attached to a tip end of the

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shaft – see figure 1, and extending from the tube operable for engaging and breaking down a spinal cord material sufficient for vacuuming – see for example figures 1-2 and the English abstract. The German patent further discloses the rotatable shaft – at 7,8,12, extends through the vacuum casing extending the cutting bit – at 1,2, beyond the vacuum casing – see for example figure 1. The German patent does not disclose the rotatable shaft is adapted to retract in the vacuum casing. Youman does disclose the rotatable shaft – at 2-5, is adapted to retract in the vacuum casing – see proximate 22-29 in figure 1 and column 2 lines 55-100 and column 3 lines 1-46. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the retractable rotatable shaft of Youman, so as to allow for the rotatable shaft to be automatically controlled.

Referring to claim 2, the German patent as modified by Youman further discloses the cutting bit is an auger style bit – at 15-19 of Youman.

Referring to claim 3, the German patent discloses the cutting bit is a drill style bit – see for example figures 1-2.

Referring to claim 4, the German patent discloses the elongated flexible tube – at 9, is in communication with a vacuum source – see for example figures 1-2 and the English abstract.

Referring to claim 5, the German patent discloses the rotatable shaft is operably attached to a rotation drive for effecting rotation of the shaft and bit – see for example figures 1-2 and the English abstract.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent as modified by Youman as applied to claim 6 above, and further in view of U.S. Patent No. 6,126,535 to Post. The German patent as modified by Youman does not disclose inserting a feed

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line through the spinal canal of an animal carcass where the feed line has a pull chain attached to a trailing edge of the feed line, and pulling the feed line and pull chain attached thereto through the spinal channel where the pull chain has linkages of spiral spring cutting head implements. Post does disclose inserting a feed line – at 13, through the spinal canal of an animal carcass where the feed line has a pull chain – at 14-23, attached to a trailing edge of the feed line, and pulling the feed line and pull chain attached thereto through the spinal channel where the pull chain has linkages of spiral spring cutting head implements – proximate 15 and/or 18 – see for example figure 2A. Therefore it would have been obvious to one of ordinary skill in the art to take the method of the German patent as modified by Youman and add the feed line and pull chain of Post, so as to allow for proper gripping of the spine of the animal carcass.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent '745 as modified by Youman as applied to claim 6 above, and further in view of DE Patent No. 19824966. German patent '745 as modified by Youman further discloses inserting an elongated tube vacuum casing – at 9, through the spinal channel – see figure 1 of the German patent '745, of a carcass, where the elongated flexible tube has a flexible high pressure tubing – at 11 and/or 16, extending therethrough and a high pressure nozzle – at 3,4, in fluid communication with the high pressure tubing – see figure 1 of the German patent '745, and attached to one end of the high pressure tubing – see figure 1 of the German patent '745, the high pressure tubing for engaging and disengaging a spinal cord in the spinal channel – see for example figure 1 of the German patent '745. The German patent '745 as modified by Youman further discloses retracting in and extending through the vacuum casing – at 1 of Youman. The German patent '745 as modified by Youman does not disclose the nozzle emits a high pressure jet spray at a

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pressure sufficient to break down spinal cord material for vacuuming out and applying a vacuum to the flexible tube vacuum casing for extracting the spinal cord material. German patent '966 does disclose the nozzle – at 3,4, emits a high pressure jet spray at a pressure sufficient to break down spinal cord material for vacuuming out and applying a vacuum to the flexible tube vacuum casing for extracting the spinal cord material – see for example figures 1-3 and the English abstract. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent '745 and add the jet spray of German patent '966, so as to allow for removal of the spinal cord from the animal carcass without chipping or damaging the bones of the spine.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Post as applied to claims 9 or 11 above, and further in view of U.S. Patent No. 4,608,732 to Hill et al. Post further discloses a line drive for pulling the feed line and chain through the canal – see for example figure 2A. Post does not disclose a sanitization system having high-pressure spray nozzles proximately disposed to the pull chain after it exits the carcass operable to spray sanitizer solution on the pull chain for sanitizing and removing debris. Hill et al. does disclose a sanitization system having high-pressure spray nozzles – at 60, proximately disposed to the pull chain after it exits the carcass operable to spray sanitizer solution on the pull chain for sanitizing and removing debris – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Post and add the sanitization system of Hill et al., so as to allow for the mechanical components of the device to be clean from any contaminants to prolong the active life of the device.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE Patent No. 19824966 in view of Youman.

Referring to claims 14 and 17, the German patent '966 discloses an apparatus/method for removing spinal cord material from a carcass of an animal comprising, an elongated flexible tube – at 0, forming a vacuum casing and a flexible high-pressure tubing – at 2,5, extending through the elongated flexible tube and captured therein for channeling and delivering fluid under pressure to a high pressure nozzle – at 3,4, for emitting a jet spray of fluid sufficient to break down a spinal cord material for vacuuming through the elongated flexible tube – at 5, where the flexible high pressure tubing is adapted to extend through the vacuum casing for engaging and disengaging the spinal cord with the jet spray – see for example figures 1-4 and the English abstract. The German patent '966 does not disclose the flexible high-pressure tubing is adapted to retract in the vacuum casing. Youman does disclose the flexible high pressure tubing – at 2-5, is adapted to retract in the vacuum casing – at 1 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the retractable rotatable shaft of Youman, so as to allow for the rotatable shaft to be automatically controlled.

Referring to claim 15, the German patent '966 further discloses a vacuum source – see for example figure 2, in communication with the elongated flexible tube forming a vacuum – see for example figures 1-3 and the English abstract.

Referring to claim 16, the German patent '966 further discloses a high pressure fluid source – see figure 2, in fluid communication with the high pressure tubing – see for example figures 1-4 and the English abstract.



*Response to Arguments*

4. Applicant's arguments with respect to claims 1-8 and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 9-13, the Post reference US 6126535 does disclose spiral spring cutting implements – see at 15-18 in figure 2a. The cutting implements at 15-18 contain springs as seen in figure 2a and in column 7 lines 54-67 and column 8 lines 1-8, and it is inherent that the springs are spiral shaped.

Referring to claim 18, the German reference '745 does disclose a tubular cutting blade – at 1-2. As seen in figures 1-2 of the German reference the cutting blade – at 1-2, is tubular shaped and is used to cut the spinal cord material as seen in the English abstract.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



PETER M. POON  
SUPERVISORY PATENT EXAMINER

3/3/05